

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Jorge Orbay

Group Art Unit: 3738

Serial No.: 10/762,695

Examiner: Isabella, David

Filed: January 22, 2004

Attorney Docket: HAN-030

Title: Orthopedic Fixation System Including Plate Element with Threaded Holes
Having Divergent Axes

Honorable Commissioner for Patents
Alexandria, VA 22313

Sir:

REPLY TO OFFICE ACTION

This is a timely reply to an election/restriction requirement. No fee is submitted herewith. If any fee is due, please charge the fee to deposit account no. 07-1732.

ELECTION

The Examiner has indicated that the following figures represent patentably distinct species and has required restriction to one thereof:

Plate: Figs. 2, 7, 10, 25;
Pegs, Fixation: Figs. 3, 3a, 4, 13, and 26.

In view thereof, applicant elects to prosecute, with traverse, claims directed to the species shown in Fig. 10. Claims 1-3, 9, 10, 12, 14-18, 28, 29, 31-35, 37-40, 42, 44-50 and 52-53 read on the elected species.

The applicant traverses on the basis that claims directed to identified species 2 and 10 should be searched and examined together. Dependent claim 41 is the only claim presently in the application not directed to the elected species. A complete search of the all of the claims in the application relative to the elected claims will not be a significant burden on the examiner. Claim 41 has been provisionally withdrawn, but assuming acceptance of the traversal by examiner, it will be added back to the application under the designation “previously presented”. Otherwise, assuming that independent claim 37 from which claim 41 depends is placed in condition for allowance, it is requested that claim 41 be allowed back into the case and allowed to proceed to issue.

It is noted that no claims are at present solely directed to the identified species of “pegs/fixation.” However, applicant reserves the right to pursue such subject matter at a later time.